

BEFORE THE FEDERAL ELECTION COMMISSION

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COMMISSION
OFFICE OF GENERAL
COUNSEL

2008 NOV 17 A 11: 37

In the Matter of

**Complaint filed by Citizens for
Responsibility and Ethics in Washington**

MUR # 6105

**RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE AND
TIMOTHY J. MORGAN, AS TREASURER**

The Republican National Committee ("RNC") and Timothy J. Morgan, as treasurer, respectfully submit this response to the complaint filed by Citizens for Responsibility and Ethics in Washington ("CREW"), designated as MUR #6105. The complainant alleges that the RNC made campaign contributions on behalf of the presidential campaign of McCain-Palin 2008 Inc. ("Campaign") to purchase personal clothing for the Republican nominee for Vice President, Sarah Palin, and her family. The complaint contends that the purchase of clothing violates the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 *et seq.*) ("the Act"), which prohibits a political contribution from being utilized for a personal purpose.

This complaint is baseless, both in law and in fact. The payments discussed in the Complaint are not campaign "contributions" as defined in the Act by 2 U.S.C. §431(8). Rather, they are "expenditures" as defined by 2 U.S.C. §431(9). In particular, these payments are included as part of the Act's special carve-out for national committees, which are authorized to spend additional funds over and above the standard expenditure limits on behalf of its presidential candidate's campaign. These special funds are commonly referred to as "coordinated party expenditures" and, by law, national party committees may spend general election funds on behalf of and in coordination with their presidential candidates' campaigns. 2 U.S.C. §441a(d); 11 C.F.R. §109.32(a).

The only substantive limitations the Act places on coordinated party expenditures is the actual amount that a national party committee is allowed to spend and the prohibition on payment of coordinated dollars directly to the individual presidential campaign. 2 U.S.C. §441a(d). Thus, a national party committee may pay expenses incurred on behalf of a political campaign, or coordinate directly with a campaign to make additional expenditures that benefit the general election effort, but it may not give these funds directly to the campaign to use at its discretion. 2 U.S.C. §441a(d)(1). Coordinated party expenditures are reported to the Federal Election Commission ("Commission") as part of the national party committee's monthly FEC Report, separately itemized on FEC Schedule F. Only a national party committee is required to report any coordinated party

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expenditures; the presidential campaign receiving the benefit is not required to report such expenditures.

No other restrictions attach to coordinated party expenditures paid by a national party committee. In fact, the Act states that coordinated party expenditures are allowed to be expended "notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions," so long as the expenditures are subject to the coordinated expenditure amount limits. 2 U.S.C. §441a(d)(1).¹

The expenditures at issue here were made as part of the RNC's "coordinated party expenditures." These expenses were paid for on behalf of and in coordination with the Campaign. These expenditures were within the RNC's authorized coordinated limit. In addition, the RNC's agents paid the invoices directly, and the Campaign was not involved in the payment of these expenses. Finally, the coordinated party expenditures were accurately reported to the Commission on the RNC's Monthly October report on its Schedule F Form. The RNC has met all of the legal requirements pertaining to coordinated party expenditures.

The complaint also claims that the RNC is subject to the personal use prohibition on candidate campaign funds. 2 U.S.C. §439a(b)(1). This prohibition, however, only applies to contributions received by candidates for federal office, not to the national committees. The very language of 2 U.S.C. §439a is limited to "candidate" only. 2 U.S.C. §439a(a) and (b). Coordinated party expenditures by the RNC do not fall within this prohibition.

The expenditures at issue in the Complaint clearly fall within the permissible expenditures that the RNC, through its agents, is allowed to make on behalf of the Campaign as part of its coordinated party expenditures. The RNC complied with the law governing coordinated party expenditures.


Under the Act and Commission regulations, complaints must contain a recitation of facts "which describe a violation of a statute or regulation over which the Commission has jurisdiction. . ." 11 C.F.R. § 111.4(d)(3)(emphasis added). The Complaint has failed to meet the minimum threshold of describing a violation of a statute or regulation, as required by the Act and Commission regulations. This Complaint should be dismissed.

For the foregoing reasons, the RNC respectfully requests that the Commission act pursuant to 2 U.S.C. § 437g(a)(1), find no reason to believe that the RNC violated any provision of the Act, immediately dismiss MUR #6105, and close the file.

¹ "Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2), (3), and (4) of this subsection." 2 U.S.C. § 441a(d)(1) (2008).

November 14, 2008

Respectfully submitted,



Sean McCormack
Chief Counsel
Republican National Committee



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The above-named individual and/or firm is hereby designated as my
counsel and is authorized to receive any notifications and other communications
from the Commission and to act on my behalf before the Commission.

11/14/08 Timothy J. Marban / SSC Treasurer
Date Respondent/Client Signature Title

RESPONDENT/CLIENT TIMOTHY J. MARBAN
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Information is being sought as part of an investigation being conducted by the Federal Election
Commission and the confidentiality provisions of 2 U.S.C. § 437g(a)(1)(A) apply. This section
prohibits making public any investigation conducted by the Federal Election Commission without
the express written consent of the person under investigation